

1999 S Corporation Election or Termination/Revocation**3560**

Effective for income year beginning month _____ day _____ year _____, and ending month _____ day _____ year _____.

Part I

California corporation number										Federal employer identification number									
Corporation name																			
Address										PMB no.									
City										State ZIP Code									

Part II

Check the applicable box. See instructions.

- ☐ 1. Report a new federal S corporation election.
- ☐ 2. Elect to remain or to become a California C corporation.
- ☐ 3. Elect California S corporation status by a federal S corporation.
- ☐ 4. Report a federal S corporation termination/revocation.
- ☐ 5. Terminate (revoke) California S corporation status only.
- ☐ 6. Correct an untimely or invalid S corporation election or an inadvertent termination.

Part III

A. Federal tax year ending (month and day)	C. Principal business activity code	D. Date of federal election or California revocation (mo., day, and year)	F. State of incorporation
B. California income year ending (month and day)	Principal product or service	E. Date of incorporation (mo., day, and year)	G. Date of qualification in California (mo., day, and year)

H. Is the corporation a continuation of any form of predecessor? ☐ Yes ☐ No
 If "Yes," state name of predecessor, type of organization, period of its existence, and California corporation number, if any ► _____

I. Selected income year: Annual return will be filed for income year ending (month and day) ► _____
 The selected income year must be a permitted income year. See Specific Line Instructions.

J. Name of each shareholder, person having a community property interest in the corporation's stock, and each tenant in common, joint tenant, and tenant by the entirety on the date of the election. A husband and wife (and their estates) are counted as one shareholder in determining the number of shareholders, without regard to the manner in which stock is owned.	K. Shareholders' Consent Statement. We, the undersigned shareholders, consent to the corporation's election to be treated as: <input type="checkbox"/> An "S corporation" under R&TC Section 23801(a)(4) (IRC Section 1362(a)). <input type="checkbox"/> A "C corporation" under R&TC Section 23801(a)(4) or 23801(f) (IRC Section 1362(d)). (Shareholders must sign and date below)*	L. Stock owned		M. Social security number or federal employer identification number	N. Shareholder's taxable year end (month and day)
		Number of shares	Dates acquired		
Signature	Date				

Attach additional sheets if necessary.

* For the consent statement of a shareholder to be valid, the consent statement of each shareholder's spouse having a community property interest in the corporation's stock, and each tenant in common, joint tenant and tenant by the entirety must either appear above or be attached to this form with each of the above parties' signatures.

Part IV

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of officer ► _____

Title	Date	Telephone ()

Instructions for Form FTB 3560

S Corporation Election or Termination/Revocation

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1998**, and to the California Revenue and Taxation Code (R&TC).

General Information

A corporation that elects federal S corporation status by filing federal Form 2553, Election by a Small Business Corporation, is deemed to have made a California S corporation election on the same date as the federal election. The corporation must report the federal S corporation election to the Franchise Tax Board (FTB) by filing form FTB 3560, S Corporation Election or Termination/Revocation.

The corporation should refer to federal Form 2553 for information on who may elect S corporation status, effective date of election, and shareholders' consent statements. Also, get the Form 100S, S Corporation Tax Booklet, for information on California filing requirements and S corporation tax.

Correcting a Federal Election

If for any income year beginning on or after January 1, 1987, a corporation failed to qualify as an S corporation solely because it did not file federal Form 2553 timely, the S corporation shall be treated as an S corporation for California purposes for the income year in which the federal election was originally made and for each subsequent income year if both of the following conditions are met:

- The corporation and all of its shareholders reported their income for California tax purposes on original returns consistent with S corporation status for the year the S corporation election should have been made, and for each subsequent income year (if any) until terminated; and
- The corporation and its shareholders filed a federal Form 2553 with the Internal Revenue Service (IRS) requesting automatic relief with respect to the late S corporation election in full compliance with federal Rev. Proc. 1997-48 I.R.B. 1997-43 and the S corporation received notification of acceptance of the untimely filed S corporation election from the IRS.

Notify the FTB of the IRS acceptance of the untimely filed election. Follow the guidelines in Specific Line Instructions, Part II, box 6, to correct an untimely or invalid S corporation election or an inadvertent termination.

Private Mailbox (PMB) Number

If you lease a mailbox from a private business rather than from the United States Postal Service, enter the box number in the special field on the form labeled "PMB no."

A Purpose

This form is used to:

- Report a new federal S corporation election (box 1);

- Elect to remain a California C corporation when a federal S election is made, or to become a California C corporation when the corporation has been a California S corporation (box 2);
- Elect California S corporation status by a federal S corporation that previously elected to remain a California C corporation (box 3);
- Report a federal S corporation termination or revocation (box 4);
- Terminate a California S corporation election by revocation without terminating the federal S corporation election (box 5); or
- Correct an untimely, invalid S corporation election, or an inadvertent termination (box 6).

B Where to File

Mail form FTB 3560 to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0540

C California S Corporations with Nonresident Shareholders

The following must be provided with the tax return filed for each income year:

- A statement of consent by each nonresident shareholder to be subject to tax on the shareholder's pro-rata share of income attributable to California sources; and
- A list of shareholders.

The FTB may have grounds for retroactive revocation of the S corporation status if the above information is not provided. Get form FTB 3830, S Corporation's List of Shareholders and Consents, for more information.

Specific Line Instructions

Enter the beginning and ending dates of the first income year for which the election is to be effective.

Part I

Entity Information

Enter the true corporate name as stated in the corporate charter or other legal document used in creating the corporation. If the corporation's mailing address is the same as someone else's, such as a shareholder's, enter "c/o" and this person's name following the name of the corporation. Include the suite, room, or other unit number after the street address. If the Post Office does not deliver to the street address and the corporation has a PO Box, show the box number instead of the street address.

Include the California corporation number and the Federal Employer Identification Number to ensure proper handling.

Part II

Box 1 – Report a new federal S corporation election

An election to be treated as a federal S corporation is deemed to be a California S corporation election, unless the corporation elects otherwise. See box 2 instructions for more information.

Since a corporation is deemed to be a California S corporation if the federal S election is timely filed, the form FTB 3560 should be provided to the FTB for informational purposes only. Form FTB 3560 should be filed even if it is after the 15th day of the 3rd month of the income year. If an existing federal S corporation qualifies to do business in California during its income year, it should file form FTB 3560 within 2 1/2 months of registering with the California Secretary of State.

See IRC Sections 1361, 1362, and 1378 and federal Form 2553 for information on valid federal S corporation elections.

To report a new federal election, or report a California S election for a federal S corporation that qualifies to do business in California, complete Part I; Part II, box 1; and Part IV. Attach a copy of federal Form 2553 to form FTB 3560.

Box 2 – Elect to remain or to become a California C corporation (will be treated as a revocation of California S corporation status)

A corporation may elect to remain a California C corporation when a federal S election is made, or to become a California C corporation when the corporation has been a California S corporation.

Under California law, a federal S corporation is a California S corporation unless the corporation properly elects otherwise. If a federal S corporation incorporated or qualified to do business in California wants to avoid California S corporation status, it may elect California C corporation status.

The time to elect California C corporation status ends on the 15th day of the 3rd month of the income year for which the election is to be effective. If timely made, the election is effective at the beginning of the income year.

Note: An untimely election to be a C corporation for California purposes shall be null and void.

If an existing federal S corporation subsequently qualifies to do business in California, the corporation will be a California S corporation unless it elects to be a C corporation for California purposes. The

California C corporation election must be filed on or before the 15th day of the 3rd month of the income year for which the election is to take effect. If the corporation qualifies to do business in California after the election deadline has passed, the corporation will be an S corporation for California purposes. However, the California S corporation status may be revoked by specifying a prospective date that is on or after the date the corporation qualifies to do business in California. See box 5 instructions for more information.

Note: An untimely, invalid, or inadvertent election to be a California C corporation cannot be corrected retroactively. See R&TC Section 23801(a)(4)(F)(ii) for more information.

If the S corporation status is terminated during an income year, short period returns are required for the S corporation short year and the C corporation short year.

To report a California C corporation election, complete Part I, and check Part II, box 2 (not box 5); complete Part III, columns J, K, and L, and Part IV. See instructions for Part III, column J and column K to determine shareholders that must consent to the C corporation election.

Box 3 – Elect California S corporation status by a federal S corporation

A federal S corporation that previously elected to become a California C corporation may elect to become a California S corporation as long as the California C corporation election (which is treated as a revocation) was not made within the past five income years or as long as a prior California S corporation status was not terminated or revoked within the past five years. See box 4 instructions for more information.

The election to become a California S corporation must be made on or before the 15th day of the 3rd month of the income year for which the election is to take effect or at any time during the prior income year.

A California C corporation that is a federal S corporation may make a California S corporation election by completing Part I; Part II, box 3; Part III; and Part IV.

Box 4 – Report a federal S corporation termination/revocation

A termination/revocation of a federal S election simultaneously terminates the S corporation election for California purposes. A corporation's federal S corporation status will be terminated if it ceases to be a small business corporation or violates the passive investment income restrictions for corporations with earnings and profits. If the corporation's federal S status is terminated, the California S corporation status terminates on the same date.

The federal S corporation election may also be terminated by revocation. An S corporation election may be revoked only if shareholders holding more than one-half of the shares of stock in the corporation on the day the

revocation is made consent to the revocation. A revocation that is made on or before the 15th day of the 3rd month of the income year shall be effective on the 1st day of that income year. A revocation made after the 15th day of the 3rd month of the income year shall be effective on the 1st day of the following income year. However, a revocation may also specify a prospective date, on the form FTB 3560, that is on or after the date the revocation is made.

If the S corporation status is terminated or revoked during an income year, short period returns are required for both the S corporation short year and the C corporation short year.

If S corporation status has been terminated or revoked, the corporation is not eligible to make another S corporation election for any income year before the 5th income year that begins after the 1st income year in which the termination/revocation is effective. See IRC Section 1362(g) for more information.

Exception: Terminations made in an income year beginning before January 1, 1997, shall not be taken into account and the corporation can re-elect S status without waiting five years.

To report a federal termination to the FTB, complete Part I and Part II, box 4. If the S corporation status has been terminated, the corporation should attach a copy of this form and the federal notification of termination to the California tax return for the year in which the termination occurs.

If the corporation is revoking its S corporation status for both federal and California purposes, the corporation should file form FTB 3560 with the FTB at the same time it files the federal statement of revocation with the IRS. The corporation should attach a copy of the federal revocation that includes the consent of shareholders holding more than 50% of the corporation's stock.

Box 5 – Terminate (revoke) a California S corporation status only

An S corporation may terminate its S corporation status for California by revocation, without terminating its federal S corporation status. Generally, the California S corporation status may be revoked for an income year if the election to revoke is made on or before the 15th day of the 3rd month of the income year for which the revocation is to be effective. An election to revoke California S corporation status made after the 15th day of the 3rd month of the income year will be effective as of the 1st day of the following income year.

If an existing federal S corporation qualifies to do business in California after the 15th day of the 3rd month of its income year, the corporation will be an S corporation for California purposes. If the corporation wishes California C corporation status to become effective during the income year in which it qualifies to do business in California, it must revoke its S corporation status for California

purposes by specifying a prospective date on form FTB 3560. The corporation can specify a prospective date on form FTB 3560 that is on or after the date the revocation is made.

To terminate the S corporation status for California, complete Part I; Part II, box 5; Part III, column J, column K, and column L; and Part IV. See instructions for Part III, column J and column K, shareholder's consent statement, to determine shareholders that must consent to the termination or revocation of S corporation status. Specify the prospective date in Part III, box D.

Box 6 – Correct an untimely or invalid S corporation election or an inadvertent termination

In limited circumstances, the law permits retroactive correction of an inadvertent invalid election of S corporation status for income years beginning on or after January 1, 1987. If a corporation failed to qualify as an S corporation for federal income tax purposes solely because the federal election was not timely filed, the corporation shall be treated as an S corporation for California tax purposes if both of the following requirements are met:

- The corporation and its shareholders requested relief from the late federal S corporation election, and the relief was granted by the IRS; and
- The corporation and all of its shareholders reported their income for California tax purposes on original returns consistent with S corporation status for the year the S corporation election should have been made and for each subsequent income or taxable year.

For income years beginning on or after January 1, 1997, if a federal S corporation election was not effective for the income year in which it was made because:

- All the required shareholder consents were not obtained;
- The corporation ceased to be a small business corporation; or
- Passive investment income exceeded 25% of gross receipts for three consecutive years.

Such inadvertent invalid election or termination may be eligible for retroactive correction.

The corporation shall be treated as an S corporation during the period for which relief is requested provided that:

- The circumstances resulting in the ineffectiveness or termination of the S corporation status were inadvertent;
- The corporation takes reasonable steps to remedy the circumstances causing such ineffectiveness or termination; and
- The corporation and its shareholders that held stock during the termination period agree to make any adjustments required that are consistent with the treatment of the corporation as an S corporation. See IRC Section 1362(f) for more information.

To correct an untimely or invalid S corporation election or an inadvertent termination, complete Part I; Part II, box 6 and Part IV. Attach a schedule with each shareholder's signature a copy of the federal acceptance of an untimely filed election, and the following statement, "I (we) agree to make adjustments as necessary that are consistent with the treatment of the corporation as an S corporation."

Part III

Box C – Principal business activity (PBA), principal product and service

Use the PBA Code Chart in the instructions for the 1999 Form 100S, California S Corporation Tax Booklet. **Note:** The new PBA codes are six digits, not four digits. **DO NOT** leave blank. Also, describe the principal product or service provided by the corporation.

Line I – Selected income year

The income year of an S corporation must be a permitted income year. A permitted income year is an income year ending on December 31 or any other income year for which the corporation satisfactorily establishes a business purpose.

The California income year of an S corporation may not be different than the federal tax year, unless such difference is initiated or approved by the FTB.

Column J and Column K – Shareholder's consent statement

If the corporation checked Part II, box 1 or box 3, each shareholder of the corporation on the day the election is made must consent to the election.

If the corporation checked Part II, box 2 or box 5, shareholders holding more than 50% of the shares of stock on the date the revocation is made must sign the consent. List all shareholders in column J and provide signatures evidencing consent from more than 50% of the total shares of stock listed in column K.

For the consent statement of a shareholder to be valid, the shareholder's signature must be accompanied by the consent of the shareholder's spouse having a community property interest in the S corporation stock.

Note: California is a community property state.

Column L – Stock owned

If the election is made during the first 2 1/2 months of the corporation's first income year for which the election is to take effect as an S corporation, list only the shares of stock for those shareholders who own shares of stock on the date of the election. However, any person who owned stock at any time during the portion of that year which occurs before the time the election is made must consent to the election even though the stock has been sold or transferred.

Column N – Shareholder's taxable year end

If a shareholder's taxable year end has changed, enter the new taxable year. If the election is made during the first 2 1/2 months of the corporation's first income year for which the election is to take effect as an S corporation, the corporation does not have to enter the taxable year of shareholders who sold or transferred all of their stock before the election was made, even though the transferring shareholders still must consent to the election for it to be effective for the income year.

Where to Get Income Tax Forms and Publications

By Internet – If you have Internet access, you may download, view, and print 1994 through 1999 California tax forms and publications. Our website address is:

www.ftb.ca.gov

By phone – To order 1999 bank and corporation tax forms and publications, call (800) 338-0505 and follow the recorded instructions. This service is available from 6:00 a.m. to 8:00 p.m., Monday through Friday except State holidays. Please allow two weeks to receive your order. If you live outside of

California, please allow three weeks to receive your order.

By mail – Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

General Toll-Free Phone Service

Between January 3 – April 17, 2000, our general toll-free phone service is available:

- Monday –Friday, 6 a.m. until midnight; and
- Saturdays and holidays, 7 a.m. until 4 p.m.

After April 17, 2000, our general toll-free phone service is available:

- Monday –Friday, 7 a.m. until 8 p.m.
- Saturdays, 7 a.m. until 4 p.m.

All times listed are Pacific Standard Time (PST).

From within the

United States (800) 852-5711

From outside the

United States (916) 845-6500
(not toll-free)

Assistance for persons with disabilities

The FTB complies with provisions of the Americans with Disabilities Act. Persons with hearing or speech impairments, call:

From voice phone (800) 735-2922
(California Relay Service)

From TTY/TDD (800) 822-6268
(Direct line to FTB customer service)

For all other assistance or special accommodations . (800) 852-5711